



**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

**Docket No. NHTSA-2010-0012**

**RIN 2127-AK58**

**Federal Motor Vehicle Safety Standards; Motor Vehicle Brake Fluids**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** NHTSA withdraws its notice of proposed rulemaking (NPRM), published on February 3, 2010, proposing amendments to the Federal Motor Vehicle Safety Standard (FMVSS) No. 116, Motor Vehicle Brake Fluids. Since publication of the NPRM and after review of the comments, the agency has determined that updates and corrections outside the scope of the notice are necessary in order to publish a final rule. Based on this, the agency has decided to withdraw the proposal to amend FMVSS No. 116.

**DATES:** The NPRM “Federal Motor Vehicle Safety Standards; Motor Vehicles Brake Fluids,” RIN 2027-AK58, published February 3, 2010 (75 FR 5553), is withdrawn as of [INSERT

**DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** Electronic Access: You can view and download related documents and public comments by going to the website <https://www.regulations.gov>. Enter the docket number NHTSA-2010-0012 in the search field.

**FOR FURTHER INFORMATION, CONTACT:** Joshua Fikentscher, Office of Crash Avoidance Standards (Phone: 202-366-1810; Fax: 202-493-0073) or Sara R. Bennett, Office of

the Chief Counsel (Phone: 202-366-2992; Fax: 202-366-3820). You may send mail to both of these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, S.E., Washington, D.C. 20590.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Federal Motor Vehicle Safety Standard (FMVSS) No. 116, “Motor Vehicle Brake Fluids,” specifies requirements for fluids for use in hydraulic brake systems of motor vehicle, containers for these fluids, and labeling of the containers. The purpose of this standard is to reduce failures, which may occur because of the manufacture or use of improper or contaminated fluid, in the hydraulic braking systems of motor vehicles. This standard applies to all fluid for use in hydraulic brake systems of motor vehicles.

### **The NPRM**

On February 3, 2010, NHTSA published a Notice of Proposed Rulemaking (NPRM) proposing to amend FMVSS No. 116 to include tests to measure the impact of brake fluid on ethylene, propylene, and diene terpolymer (EPDM) rubber, update references to industry standards, and correct minor errors in the standard.<sup>1</sup> The supporting rationale for the proposed EPDM testing amendment was that the motor vehicle industry had shifted over the last two decades from using styrene-butadiene rubber (SBR), which is currently covered by FMVSS No. 116, to EPDM rubber. The proposed rule informed the public about the agency’s proposal to amend the standard by: (1) adding the testing of a terpolymer of ethylene, propylene, and diene (EPDM) rubber to the corrosion test and the temperature sensitivity test; (2) updating the Society of Automotive Engineers International (SAE) and American Society for Testing and Materials (ASTM) references; and (3) correcting minor errors.

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<sup>1</sup> 75 FR 5553 (Feb. 3, 2010).

## **Comments Received**

NHTSA received comments on the 2010 NPRM from three manufacturers of brake fluid/components, an international standards organization, and an individual. Two of the manufacturers mentioned that the Compatibility Fluid, RM-66-05, was no longer available, and had been replaced by RM-66-06 or ISO 4926 fluid. All three manufacturers suggested changes to a performance test that was unmentioned in the agency's proposal. The international standards organization suggested changes that reflected more recent SAE standards. The individual opposed the incorporation of industry standards into Federal regulations and suggested additional performance tests.

## **Reason for Withdrawal**

Although the agency proposal in 2010 provided amendments to add EPDM rubber to the standard and update the references to industry standards, further research and studies are necessary to develop a proposed upgrade to FMVSS No. 116 that would effectively provide minimum performance requirements for the type of EPDM rubber currently available. The rubber formulations included in recent updates to industry standards have changed, and the blends referenced in the NPRM include ingredients that are no longer available.

In addition to changes to the SBR and EPDM rubber formulations, the agency determined other corrections are necessary that were not included in the NPRM. One such correction brought up by commenters is the reference to the Compatibility Fluid, RM-66-05, which had been replaced by the RM-66-06 fluid. Another correction needed is the hardness test procedure for the EPDM rubber, which had been inadvertently omitted from the proposed performance tests in the NPRM. Finally, NHTSA notes SAE International and the ASTM have updated

several of the industry standards and tests referenced in the NPRM since the publication of the notice in 2010.

Since publication of the NPRM and after review of the comments, the agency has determined that updates and corrections outside the scope of the notice are necessary in order to publish a final rule, and additional research and data analyses are needed. Accordingly, NHTSA has determined that the proposed updates in the 2010 NPRM to FMVSS No. 116 should not be adopted at this time and is withdrawing the NPRM.

Issued on \_\_\_\_\_ in Washington, D.C., under authority delegated in 49 CFR 1.95 and 501.5.

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Heidi Renate King,  
Deputy Administrator

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(Signature page for Notice of Withdrawal, Brake Fluids, FMVSS No. 116)

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